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TITLE 27

Zoning and Planning

Chapter

1. Municipal Zoning
3. Subdivisions

CHAPTER 1

Municipal Zoning

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§ 6501. Definitions

For the purpose of this chapter:

(1) Singular words shall include the plural, and plural the singular, words in the present tense shall include the future, "used" shall include "designed or intended to be used," and the word "shall" is mandatory and not merely directory.

(2) Apartment house. A building or portion thereof used or designed to be used as a residence for three or more families living as units independently of one another.

(3) Building. Anything constructed or erected, the use of which requires more or less permanent location on the soil, or attached to something having a permanent location on the soil.

(4) Height of building. The vertical distance from the street curb level to the mean level of the slope of the main roof, provided, however, that the average elevation of the finished grade in front of the building may be substituted for the street curb level where the building in question is set back from the street a distance at least equal to the difference in elevation between the curb level and the grade level.

(5) Hotel. A building occupied as the temporary or permanent abiding place of individuals lodged therein with or without meals, in which there are more than fifteen sleeping rooms above the first story for separate occupancy and no provision made for cooking in individual rooms.

(6) Nonconforming use. The use of a building or premises which does not conform with the use regulations of the district where located.

(7) Public garage. A garage other than private, used or designed to be used for the housing or care of more than three self-propelled vehicles, where any such vehicles are for hire, stored, repaired, serviced, or kept for lease or sale.

§ 6502. Administration and enforcement

The building inspector of the city, or in case of his absence from the city, inability to serve, resignation, death or removal, the deputy building inspector, shall be the zoning administrative officer. No building or structure, or part thereof, shall be erected, altered or moved without a permit from the zoning administrative officer, issued upon application, stating that the plans and intended use indicate that the building is to conform in all respects with the provisions of this chapter. He shall have general charge of the administration of this chapter.

§ 6503. Board of adjustment

(a) The Board of Adjustment shall consist of 5 members, who shall be appointed by the mayor, with the approval of the board of aldermen. They shall be appointed promptly upon this ordinance becoming effective, and shall hold office until the first day of July next succeeding. Thereafter, the members of said board shall hold office for a term of 3 years, and they shall be appointed by the mayor, with the approval of the board of aldermen, between the first and second Mondays of the June preceding the expiration of their terms. Any vacancy occurring on said board shall be filled in the same manner, for the unexpired term.

(b) The powers and duties of the board of adjustment shall be in all respects as prescribed by chapter 67 of Title 24 of the Vermont Statutes Annotated.

Cross references. Establishment of board of adjustment, see 24 V.S.A. § 3014.

Number of members and term of office, see 24 V.S.A. § 3015.

Proceedings and rules of board, see 24 V.S.A. § 3016.

§ 6504. Procedures

(a) The board of adjustment shall adopt rules of procedure in accordance with the several provisions of this chapter and of applicable statutes, fixing the time for the taking and filing of appeals to such board, and regulating the conduct of the business of the board.

(b) All appeals to the board of adjustment shall comply with the statutory provisions relating thereto. All applications for special exceptions shall be signed by the applicant, and shall set forth (1) the applicant's name and legal address and the name and legal address of the owner of the real estate to be affected, (2) a brief description of the real estate to be affected, (3) a statement of the present zoning classification of the real estate to be affected, the improvements thereon, and its existing use, (4) a reference to the provisions of the ordinance under which an exception is sought, and the grounds therefor, (5) an accurate description of any proposed construction, alteration, repair, or change of use, together with a plot plan showing the location of the same and their relation to existing structures, and (6) such additional plans or specifications as the board may require to explain or clarify the application, prior to advertising the same for public hearing.

(c) Each appeal or application for special exception filed with

the board shall be accompanied by a fee of \$12 to cover advertising and other costs associated therewith. Upon the filing of such appeal, or application, together with the required fee, the board shall fix a time and place for public hearing thereon, and give notice thereof by (a) publishing a notice thereof once, at least 6 days before the date so fixed, in a newspaper of general circulation in the city, and by mailing a similar notice at least 6 days before the date so fixed to the applicant and to any interested party who shall have appeared in writing, and (b) unless the board shall otherwise order, by mailing a similar notice to the owner or occupant of every lot on the same street as the property affected within 500 feet thereof and to the owner or occupant of every lot not on the same street within 150 feet of the property affected. Any lack of notice, or defect therein, under (b) above, shall not affect the validity of any action taken by the board. The notice required hereunder shall contain the time and place of the public hearing, the location of the premises involved, and a general statement of the nature of the question involved.

(d) In any case where a variance or special exception is granted, the board shall issue a certificate thereof, which may be cancelled or revoked for violation of this chapter or of conditions which may be imposed on such variance or special exceptions to carry out the spirit and intent of this chapter. Unless otherwise specified by the board, any such certificate shall expire 6 months from its date if the applicant fails to obtain such building permit, or use and occupancy permit, as may be required in connection therewith.

Cross references. Power of board of adjustment generally, see 24 V.S.A. §§ 3017-3021.

Rules of procedures, see 24 V.S.A. § 3016.

§ 6505. Certification of occupancy

No premises or building or part thereof, hereafter erected or altered wholly or in part in use or structure, or moved, and no building, the open spaces of which are in any way reduced, shall be used until the zoning administration officer shall have certified the use to which the buildings or premises may be put, and no use shall be made of such buildings or premises in any way inconsistent with such certificate.

Cross references. Inspection of materials, construction, alteration, removal, repair and use of buildings and other structures, see 24 V.S.A. § 3101.

§ 6506. Districts

(a) The city of Burlington is hereby divided into five districts, as follows:

- Zone 1. Residential district.
- Zone 2. Park district.
- Zone 3. Commercial district.
- Zone 3A. Modified commercial district.
- Zone 4. Industrial district.

(b) The boundaries of said districts are hereby fixed and established as shown upon the map attached hereto and made a part hereof, being designated as the "District Map," and said map, with all notations and references thereon, is hereby made a part of this chapter as fully as if described herein.

Cross references. Statutory provisions, see 24 V.S.A. § 3001 et seq.

§ 6507. Boundaries

(a) The boundaries of said districts are, unless otherwise shown on the map, either the center lines of streets, alleys, or railroad rights of way, or lines parallel to; and at a distance designated on said map from, the side line of the less restricted side of the street, alley or railroad right of way; provided that, if a block divided by a boundary be less than 200 feet across, measured perpendicularly to the boundary, then the boundary shall be the middle line between the nearest side lines of the streets, alleys, or railroad rights of way on either side thereof.

(b) Notwithstanding the provisions of subsection (a) of this section, the following described land and premises shall be included within Zone 1:

(1) That portion of the city lying between the center line of Lakeview Terrace and the easterly property line of Central Vermont Railway, Inc.

(2) The triangular area bounded on the west by the center line of Colchester Avenue, on the north by the center line of Barrett Street and on the south and east by the center line of Chase Street.

(3) So much of the area shown on the map as within Zone 3 as lies east of the center line of Shelburne Road and north of the southerly boundary of the city.

(4) That portion of the city bounded on the east by the center line of Front Street, on the west by the center line of North Avenue and on the north by a line parallel to and 175 feet southerly of the center line of North Street, the same being an area triangular in shape.

(5) That area bounded by a line beginning at the intersection of the center line of Spring Street extended to the rear lot lines on

the westerly side of North Bend Street, thence extended northerly and easterly along said rear lot lines of North Bend Street to the center line of Intervale Avenue extended, thence extended southerly in the center line of Intervale Avenue to a point 200 feet northerly from the center line of Archibald Street, thence extended westerly in a straight line to the point of beginning, except so much thereof as is included in Roosevelt Park.

(6) The area bounded by a line beginning at the intersection of the center line of Lakeside Avenue and the westerly property line of the Rutland Railroad Company, thence extended westerly in the center line of Lakeside Avenue and its extension to the intersection of the center line of Proctor Place extended, thence extended southerly in the center line of Proctor Place to the northerly property line of Socony-Vacuum Oil Company; thence extended easterly along the northerly line of said Socony-Vacuum Oil Company and the northerly property line of the Vermont Hardware Company to the westerly line of the Rutland Railroad Company; thence extended northerly along said westerly line of the Rutland Railroad Company to the point of beginning.

(7) That portion of the city bounded on the north by South Park, on the south by lands of the City of Burlington, on the east by the present westerly boundary of Zone 1, and on the west by a line described as follows:

Commencing at a point formed by the intersection of the south line of South Park and the westerly line of Lot 13 as shown on a plan of property entitled "Cherry Lane Extension," recorded in Volume 148, at page 662, of the Land Records of the City of Burlington; thence extending in a southerly direction in and along the westerly line of Lots 13, 14, 15, 16, 17, 18, 19 and 20, as shown on said plan referred to above to a point formed by the intersection of said westerly line of the above referred to lots when extended and the middle of Birchcliff Parkway; thence deflecting to the left and extending in an easterly direction in and along the midline of said Birchcliff Parkway to a point where it crosses the present westerly line of said residential zone referred to above; thence deflecting to the right in and along said westerly line of said residential property referred to above to a point formed by its intersection with the southwesterly line of Birchcliff Parkway; then deflecting to the right and extending in and along the easterly line of property owned by one Fred C. Koerner, which said line also constitutes the westerly line of

property belonging to one Joseph Allard et ux., and extending to the northerly line of property formerly belonging to the Flynn Estate and now owned by the City of Burlington.

(c) Notwithstanding the provisions of subsection (a) of this section, the following described land and premises shall be included within Zone 3:

(1) The lands and premises at 239 and 239½ Main Street, the lands and premises at 247 Main Street, and so much of the lands and premises at 251 Main Street as lies north of the north line of premises at 157-159 South Union Street extended westerly.

(2) That area bounded by a line beginning at a point in the east line of Elmwood Avenue at the existing southerly termination of Zone 3; thence extending southerly in the east line of Elmwood Avenue a distance of 115 feet to a point; thence deflecting to the left at an angle of 90 degrees and extending easterly a distance of 100 feet to a point; thence deflecting to the left at an angle of 90 degrees and extending northerly a distance of approximately 115 feet to the southerly termination of Zone 3; thence deflecting to the left and extending westerly in said southerly line of Zone 3 to the east line of Elmwood Avenue at the point of beginning.

(3) A strip of land 250 feet in depth lying southerly of the south line of Riverside Avenue and extending easterly from North Prospect Street along said south line to the easterly line of the premises at 236 Riverside Avenue.

(4) A lot of land lying northerly of that portion of South Park fronting on Shelburne Street, having a frontage on Shelburne Street of 55 feet, a westerly depth of 326 feet, and a westerly line of 83 feet.

(5) The area on the southeast corner of King Street and South Winooski Avenue comprising the second parcel in a deed from Moses D. Perelman and Bessie F. Perelman to the Beacon Oil Company, dated August 10, 1929, and recorded in Vol. 94 at page 489 of the Burlington Land Records, and the premises conveyed in a deed from John J. Deschenes and Frances C. Deschenes to John F. and Grace E. Lynch, dated January 17, 1950, and recorded in Vol. 136 at page 24 of the Burlington Land Records.

(6) The area on the southerly side of Riverside Avenue, running easterly from the area described in paragraph (3) of this subsection to the northeasterly line of property owned by Green Mountain Power Corporation, to a depth of 250 feet southerly of Riverside Avenue; provided, however, that there shall not be

included in said area any premises fronting on the westerly side of Colchester Avenue except such premises as also abut on Riverside Avenue.

(7) Beginning at a point in the westerly line of Elmwood Ave., at the northerly boundary of the existing Zone 3, thence extending along the westerly line of Elmwood Ave. a distance of approximately 400 feet to the northeast corner of the City Parking Lot; thence westerly in and along the north line of the City Parking Lot a distance of approximately 200 feet to the northwest corner of the City Parking Lot; thence southerly along the westerly line of the City Parking Lot, a distance of approximately 45 feet to the southeast corner of land owned by Leo S. and Ruth Knox, 56 George St., thence westerly along the southerly line of 56 George St. to the east line of George St. a distance of approximately 150 feet; thence southerly along the east line of George St. to the southwest corner of property of the John McKenzie Packing Company, Inc., a distance of approximately 245 feet; thence easterly along the southerly line of the said John McKenzie Packing Company, Inc. property a distance of 100 feet to a point; thence southerly in a line parallel to George St. and 100 feet distant therefrom to the northern line of the existing Zone 3 a distance of approximately 155 feet, thence easterly in and along the north boundary of existing Zone 3 to the point of beginning.

(8) That portion of the City located southerly of Home Avenue, bounded on the east by the west line of Shelburne Street, on the north by the south line of Home Avenue, on the west by a line parallel to the west line of Shelburne Street and 600 feet westerly therefrom, and on the south by the boundary line between the City of Burlington and the Town of South Burlington.

(d) Notwithstanding the provisions of subsection (a) of this section, the following described land and premises shall be included within Zone 4:

(1) That portion of the city bounded on the south by the southerly line of the water department filtration plant property extended easterly to the present boundary of Zone 4, on the west by Lake Champlain; and on the north and east by the present boundaries of Zone 4.

(e) Notwithstanding the provisions of subsection (a) of this section, the following described lands and premises shall be included within Zone 3A:

(1) That portion of the city bounded on the south by the

center line of Home Avenue, on the north by the center line of Flynn Avenue, on the east by the westerly line of Shelburne Street, and on the west by a line parallel to the westerly line of Shelburne Street and 325 feet westerly therefrom.

(2) That portion of the city bounded on the south by the south line of the driveway leading westerly from North Avenue to property of Consolidated Rendering Company, easterly by the westerly line of North Avenue, northerly by the south line of the S. W. Thayer School property, and westerly by a line parallel to the westerly line of North Avenue and 600 feet westerly therefrom.

Cross references. Dividing municipality into districts, see 24 V.S.A. § 3005. Uniform regulations, see 24 V.S.A. § 3006.

§ 6508. Lots in two districts

Where a district boundary line divides a lot held as an entity by any owner or owners of record at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than 30 feet into the more restricted portion, provided the lot has street frontage in the less restricted district.

§ 6509. Residential district — Zone 1

Subject to the provisions of sections 6517–6520 hereinafter contained, no building shall be erected, altered or used, and no premises shall be used, in Zone 1, for any purpose except:

- (1) Single family dwellings.
- (2) Two family dwellings.
- (3) Farm or garden, provided such use shall not be injurious, noxious, detrimental or offensive to the neighborhood.
- (4) Church use, educational use, municipal recreational use.
- (5) Any of the following uses, when authorized as a special exception by the zoning board of adjustment:
 - (A) Apartment houses of three or more family units, hotels, tourist cabins, and motels.
 - (B) Rooming houses and tourist homes.
 - (C) Customary home occupations, such as millinery, hair-dressing, manicuring, laundering, preserving, home cooking, or the office of a doctor, dentist, musician, teacher, architect, artist, attorney, or member of some other recognized profession, provided such occupation be carried on by a person only within the dwelling or apartment used by him as his private residence, that no more than one other person be employed therein, and that such occupation occupy not more than one-third of the floor area of such dwelling

or apartment. No such occupation shall be carried on in an accessory building, and there shall be no display or advertising visible from the street except a professional or announcement sign not exceeding 1½ square feet in area.

(D) Offices of one or more doctors, dentists, musicians, teachers, architects, artists or attorneys, located other than within dwellings or apartments used by him or them as a private residence.

(E) Greenhouses or nurseries.

(F) Hospitals, sanitariums, or buildings used for charitable purposes.

(G) Governmental use.

(H) Golf courses.

(I) Club uses.

(J) Any use of the same general character as (A)–(I), *supra*.

Cross references. Restrictions in erection, construction, reconstruction, alteration, repair or use, see 24 V.S.A. § 3005.

— Exceptions to existing structures and uses, see 24 V.S.A. § 3010.

§ 6510. Park district — Zone 2

Subject to the provisions of sections 6517–6520 hereinafter contained, no building shall be erected, altered or used, and no premises shall be used, in Zone 2, for any purpose except those permitted in Zone 1, or for park or recreational purposes. This section shall, however, be subject to the provisions of any existing law with respect to the use of parks.

Cross references. Parks, see section 3801 et seq.

§ 6511. Outdoor advertising

Subject to the provisions of sections 6517–6520 hereinafter contained, and except as otherwise herein provided, no person shall erect or maintain, or cause to be erected or maintained, in Zones 1 and 2 any outdoor advertising structure, device, or display, and for the purpose of this section, the word “display” shall mean erecting, maintaining, pasting, painting, and posting an advertisement or sign out of doors or erecting or maintaining a billboard or other structure designed and intended for display of advertising matter where the same may be seen by the public.

Cross references. Illuminated signs, see section 4501 et seq.

Limiting advertising structures, see 24 V.S.A. § 3008.

Signs over street, see section 4207.

Statutory provisions, see 9 V.S.A. § 3621 et seq.

§ 6512. Commercial district — Zone 3 .

Subject to the provisions of sections 6517–6520 hereinafter contained, no building shall be erected, altered or used, and no premises shall be used, in Zone 3, for any purpose except:

(1) Uses permitted within Zones 1 and 2, including uses conditionally permitted.

(2) Business or professional offices, studios, banks, savings and loan associations, financial institutions, municipal or other governmental uses.

(3) Retail establishments for the sale of dry goods, variety and general merchandise, clothing, food, drugs, furnishings or other household supplies or equipment, sale and repair of jewelry, watches, clocks, optical goods, and musical, professional or scientific instruments.

(4) Restaurants, tearooms, cafes, retail bakeries, confectionery or ice cream shops, or other places serving food or beverages.

(5) Personal service establishments, including tailor and barber shops, beauty shops, shoe repair shops, dressmaking shops, or similar shops, and parking lots.

(6) Telephone central offices, telegraph or other public utility offices, passenger stations for public transportation.

(7) Bakeries, and confectionery or custom shops, for the production of articles to be sold at retail on the premises.

(8) Florist shops, and Christmas tree sales.

(9) Indoor theaters, bowling alleys, billiard rooms, and other places of indoor amusement and recreation.

(10) Newspaper publishing plants, and job printing plants.

(11) Animal Hospitals.

(12) Hand or automatic self-service laundries.

(13) Undertaking establishments.

(14) Accessory use, on the same lot with and customarily incidental to, the foregoing uses.

(15) When authorized as a special exception by the board of adjustment:

(A) Sales agencies for automobiles, service or repair shops for automobiles, body repair shops, gasoline filling stations, storage garages, public garages, and lots for the storage of more than two unlicensed motor vehicles.

(B) Wholesale establishments, including warehousing, distribution, and docking.

(C) All uses of the same general character as those hereinbefore specifically enumerated as permitted, or conditionally permitted, in Zone 3.

Cross references. Junk yard regulatory provisions, see 24 V.S.A. §§ 2067-2081.

§ 6513. Modified commercial district — Zone 3A

Subject to the provisions of sections 6517-6520 hereinafter contained, no building shall be erected, altered or used, and no premises shall be used, in Zone 3A, for any purpose except:

(1) Any use permitted or conditionally permitted in Zones 1 or 2; and any use permitted or conditionally permitted, in Zone 3, when authorized as a special exception by the board of adjustment. Such special exception shall not be authorized except upon a finding that the permitted use will not be obnoxious, offensive, injurious, or detrimental to the neighborhood.

§ 6514. Gasoline filling stations

Notwithstanding the provisions of sections 6509, 6510, 6512, and 6513 of this chapter, no building shall hereafter be erected, altered, or used, and no premises shall be used, except in each instance as provided in section 6517, as a gasoline filling station, within that portion of the city bounded northerly by the center line of North Street, easterly by the center line of North Union Street and South Union Street, southerly by the center line of Maple Street, and westerly by the center line of North Champlain Street and South Champlain Street.

§ 6515. Industrial district — Zone 4

Subject to the provisions of sections 6517-6520 hereinafter contained:

(1) No buildings shall be erected, altered or used, and no premises shall be used, in Zone 4, for single or multiple dwellings or apartment houses.

(2) No buildings shall be erected, altered or used, and no premises shall be used, in Zone 4, for any purpose except:

(A) Wholesaling, warehousing, distributing, trucking, laundering, cleaning and dyeing, storage and sale of lumber, plumbing and other building materials and supplies, and of ice, coal, fuel oil, and monuments, metal-smithing, extrusion of small metal products, welding, body repair, plating, cold storage, frozen food lockers, research or testing laboratories.

(B) Manufacturing or processing of beverages, confections, cream, all food products (except meat and fish packing), ceramics, clothing, plastics, electrical appliances and equipment, furniture, hardware, tools, dies, patterns, scientific instruments, jewelry, time pieces, optical goods, musical instruments, toys, cosmetics, tobacco products, and drugs.

(C) Manufacturing of products from the following previously prepared materials: wood, glass, textiles, cork, leather, bone, horn, shell, fur, feathers, hair, sheet rubber, paper, or plastics.

(D) Any use permitted, or conditionally permitted, in Zones 1, 2 or 3, except those prohibited by paragraph (1) of this section.

(E) Any other use, when authorized as a special exception by the board of adjustment.

§ 6516. Unit development

Any other provisions of this chapter notwithstanding, the zoning board of adjustment, with the approval of the planning commission and the board of aldermen, may approve as a special exception the commercial development of any area within the city which shall contain a minimum of 7 acres, or be bounded on all sides by accepted public streets. Such development shall, as a condition of such approval:

(1) be consistent with the orderly development of the city and the purposes of this chapter, (2) safeguard permitted uses of properties adjacent to the area, (3) consist of a harmonious grouping of buildings, service areas, parking areas, drives, and open spaces, planned as a single unit, and constituting a safe, efficient and convenient commercial center, (4) be limited to uses permitted, or conditionally permitted, in Zone 3, (5) contain adequate provision for safe and efficient pedestrian and vehicular traffic within its boundaries, (6) contain provision for safe and efficient ingress from and egress to public streets and highways without undue congestion to or interference with normal traffic flow, (7) provide adequate off-street parking and loading space, as required by the provisions of this chapter, and (8) if the development is to be carried out in progressive stages, shall comply with the foregoing requirements at the completion of any stage of such development.

Cross references. Board of adjustments making exceptions, see 24 V.S.A. § 3014.

Powers of board of adjustment, see 24 V.S.A. § 3020.

— Reversal; affirmance, see 24 V.S.A. § 3021.

— Appeal, see 24 V.S.A. § 3022.

§ 6517. Nonconforming uses

Any lawful building or use of a building or premises in nonconforming use prior to the effective date hereof may be continued, anything herein contained to the contrary notwithstanding, and the board of adjustment may, on application and hearing, permit the enlargement or alteration of such building and the extension of such use, provided that the total permits for such alteration or enlargement shall not exceed 25 per cent of the total floor area of the building above grade; and said board of adjustment may, on application and hearing, in cases of undue hardship permit the enlargement or alteration of such building and the extension of such use, provided that the total permits for such alteration or enlargement shall not exceed 50 per cent of the total floor area of the building above grade. Applications for such alteration or enlargement shall contain the dimensions of the building and an accurate statement of the floor area above grade at the date this amendment became effective and shall state whether prior applications have been made and prior permits granted, and if so shall give the date of all such prior applications and permits. The zoning administrative officer shall keep an accurate record of all such applications and permits.

§ 6518. Changes or extension of nonconforming uses

(a) The board of adjustment may, on application, permit the change from a nonconforming use not substantially different in its purpose and manner of application and no more harmful or objectionable to the neighborhood, provided that the building involved, if any, shall neither be structurally altered nor enlarged to an extent in the aggregate greater than 20 per cent in volume or 70 per cent of the assessed value of the land and buildings on date of application, and provided further, that any addition to such building must be of the same or better material and construction than the original building.

(b) No nonconforming use, if once changed to a use permitted in the district where it is located, shall be changed back to a nonconforming use, and the provisions of section 6517 shall, in the event of such change, no longer apply.

§ 6519. Temporary uses

The board of adjustment may, upon application, issue a permit for a quarry, gravel pit, or sand pit. It may also, upon application,

issue a permit for a nonconforming temporary building for use incidental to the development of a neighborhood, provided, however, that in the case of such temporary building, the application for such permit shall be accompanied by a bond satisfactory to the board, and conditioned on the payment to the City of Burlington of costs of removal of such building upon the expiration of the term of such permit, if the same is not removed by the owner thereof. In the case of such building, the permit shall not issue, in the first instance, for a period of more than 2 years, but such permit may be renewed from time to time by said board for a period of not more than one year for each such renewal.

§ 6520. Residential trailer parking

The use of trailers for living purposes shall be prohibited within the territorial limits of the city, except in such areas within the park district as the board of park commissioners may designate, or in such other areas as may be approved by the board of adjustment for residential trailer parks. The board of adjustment shall not approve any such area except after public hearing on any application therefor, and unless adequate utilities, sanitary facilities, living space requirements and provision for year-round access and surface drainage are provided. It shall not approve any such area unless satisfied that its use for residential trailer purposes will not be injurious or detrimental to the neighborhood. It may condition the continuance of such use, if approved, upon continued compliance with such reasonable minimum standards with respect to the above matters as it may from time to time prescribe.

Collateral references. See Nimlo Model Ordinance Service, section 8-901 et seq.

Cross references. Trailer parks, statutory provisions, see 24 V.S.A. §§ 2231-2233.

§ 6521. Restoration after fire

Nothing herein contained shall prevent the substantial restoration within one year, and continued use, of a building damaged by fire or other casualty, provided, however, that in the event of damage to a building nonconforming in use, location or structure to an extent that the estimated cost of restoration exceeds three-fourths of its fair valuation immediately prior to such damage, such restoration shall not be made without authorization by the board of adjustment.

§ 6522. Height and area regulations

(a) **Rear yards.** In Zone 1, no building shall be erected within 5 feet from the rear lot line.

(b) **Side yards.** In Zone 1, no building shall be erected within 5 feet of a side lot line.

(c) **Front yards.** In Zone 1, no building shall be erected and no roadside stand shall be placed or built, within 15 feet of the front lot line, provided that no building need be set back more than one-fifth of the depth of the lot, nor more than an average of the setbacks of the buildings on the lots adjacent thereto on either side, a vacant lot or lot occupied by a building set back more than 15 feet being computed, for that purpose, as though occupied by a building set back 15 feet. No uncovered porch, however, need be set back further than 10 feet from the front lot line.

(d) **Lot size.** In Zone 1, no building shall be erected on a lot containing less than 6,000 square feet, or having less than 60 feet frontage, and no dwelling for more than one family shall be erected on a lot containing less than 7,200 square feet, unless a plan or description of such lot was duly recorded in the office of the city clerk prior to March 4, 1947. In any district, no building used exclusively for dwelling purposes shall be erected in such manner that it, together with its accessory buildings, shall occupy more than 40 per cent of its lot.

(e) **Appurtenant open space.** No lot shall be so reduced that the dimensions of any open space shall be less than herein prescribed. No yard or other open space required for a building by this chapter shall, during the life of such building, be occupied by, or counted as open space for, another building.

(f) **Height regulation.** In Zone 1, the height of an apartment house or hotel shall not exceed four stories or 55 feet, whichever is greater, unless it sets back from each street adjacent to the lot line, 10 feet plus an additional 5 feet for each story in height in excess of four. In Zone 1 no building shall exceed six stories in height, or 75 feet, whichever is greater.

(g) **Off-street parking and loading.** Any building or other structure erected, enlarged, or rebuilt, or of which the use is changed, shall be provided by owner or occupant with the minimum off-street parking spaces as set forth hereinafter, or equivalent garage space, of 200 square feet per space, plus adequate passage ways, drive-ways, or other means of circulation and access to and from a street

or way. A building which is enlarged, without change of use, need be provided only with such spaces for the enlarged portion. Any building or other structure in existence prior to the effective date hereof may, however, be rebuilt in the event of damage or destruction, subject to the provisions of section 6521, without provision for such space, provided (1) that the purposes to which the building or structure is to be devoted are substantially unchanged, (2) that the floor space is not increased, (3) that parking space available prior to such damage or destruction is not decreased, (4) that the rebuilding is done within one year from the damage or destruction, and (5) that the board of adjustment shall, upon application, find that the foregoing requirements will be satisfied, upon consideration of such plans, drawings, or other documentation as the board shall require to be submitted.

Minimum off-street parking space requirements shall be as follows:

(1) **DWELLING.** One parking space per family unit, on the same lot therewith.

(2) **ROOMING HOUSE.** One parking space per family unit, plus one for each room for rent, on the same lot therewith or on land adjacent thereto.

(3) For any of the following uses, parking spaces as herein-after set forth, located within 300 feet of an entrance regularly used by patrons:

(A) *School, Public Auditorium, Assembly or Meeting Room, or Other Similar Place of Public or Private Assembly (except churches).* One parking space for every ten seats used for assembly purposes, plus one space for each 100 square feet of space used for public assembly not containing fixed seats.

(B) *Stadium or Other Similar Place of Assembly.* One parking space for every 10 seats.

(C) *Hospital, Convalescent Home, or Sanitarium.* One parking space for every four beds.

(D) *Offices.* One parking space for every 400 square feet of floor area.

(E) *Community Center, Library, Museum, or Other Similar Places.* One parking space for every 800 square feet of floor space in public use.

(F) *Institutional Home.* One parking space for every 10 occupants.

(G) *Residential Club*. One parking space for every two occupants, plus one parking space for every 100 square feet of floor area in public use.

(H) *Retail Store, Shop or Service Establishment*. One parking space for every 200 square feet of store sales space.

(I) *Fraternity Houses, Sorority Houses, and Dormitories*. One parking space for every five occupants.

(J) *Indoor Theater*. One parking space for every eight seats.

(K) *Motel or Tourist Home*. One parking space for each rental unit.

(L) *Hotel*. One parking space for each three rental units, plus one parking space for every 100 square feet of floor space devoted to patron use, excluding lobbies and lounges.

(M) *Funeral Homes*. One parking space for every 200 square feet of floor area.

(N) *Wholesale Establishment*. One parking space for every 1,000 square feet of floor area.

(O) *Restaurant, Cafe, or Tearoom*. One parking space for every 100 square feet of floor space devoted to patron use.

(P) *Laboratory or Industrial Establishment*. One parking space for every three employees.

(Q) *Open Areas Used for Commercial Purposes*. One parking space for every 1,500 square feet of area.

(R) *Others*. All other uses, buildings and structures not specifically listed. Such spaces as may be determined, on application, by the board of adjustment, to be comparable to the above listed requirements.

(4) **MULTIPLE USES**. In the case of a building or structure devoted to two or more uses, the parking spaces to be provided shall be the total required for the several uses.

(5) **BASEMENT AREAS**. For the purposes of this subsection, floor area shall include basement area used for purposes other than utilities and storage.

(6) **SPACE DEFINED. COMPUTATION**. Parking or loading space may be open or enclosed, and shall mean space completely usable during the entire year under the varying weather conditions of the area. In computing minimum space required for parking, one-half or more of the basic unit of requirement shall be considered a full unit.

(7) **COMMON AREAS.** When authorized as a special exception by the board of adjustment, the owners of two or more establishments may develop areas for joint use to meet their parking space requirements, if such areas are located within 300 feet of an entrance regularly used by patrons of each establishment.

(8) **INNER BUSINESS DISTRICT.** Within that area bounded southerly by King Street, westerly by Pine Street and Pine Street extended northerly to intersect with northerly boundary herein described, northerly by the southerly line of Grant Street and a line as extended westerly therefrom to the east line of Pine Street extended, and easterly by North and South Union Streets, the minimum parking space requirements herein set forth shall not apply.

(9) **SPECIAL EXCEPTIONS FOR UNDUE HARDSHIP.** The board of adjustment may, upon application and hearing, and in its discretion, grant special exceptions to the provisions of the subsection where undue hardship is shown to exist, by permitting required parking spaces to be located at greater distances from the premises for which they are required than the distances herein specified. Each application therefor shall be accompanied by such plans and specifications as the board may require, and the board may establish such special conditions or requirements in connection with such exception as it may consider necessary to carry out the spirit and intent of this subsection.

(10) **AVAILABILITY.** Parking spaces required hereunder shall be available for use at all times by occupants of dwellings to which they are accessory; for use by patrons, customers, employees, guests and visitors of commercial and industrial establishments during the business hours of such establishments; for use by employees and persons in attendance at places of assembly during the hours when such places are in use.

(11) All commercial and industrial establishments shall have loading space adjacent to an access door other than the one opening upon a public street.

(12) In the event of conflict between the provisions of this subsection and the provisions of section 6521, the provisions of this subsection shall control.

§ 6523. Penalty

Whoever violates any provision of this chapter shall be punished by fine not to exceed \$10. Each separate 24 hours that such

violation is continued shall be deemed a separate offense. The imposition of a penalty hereunder shall not bar resort to any other legal or equitable remedy.

Cross references. Conflicting regulations, see 24 V.S.A. § 3025.

Municipality may institute proceedings to prevent an unlawful action, see 24 V.S.A. § 3024.

§ 6524. Construction of chapter, other laws

(a) This chapter shall not repeal any laws, ordinances, rules, regulations, or permits previously adopted or issued, nor shall it be construed to annul or abrogate any existing easements, covenants or agreements; provided, however, that if this chapter imposes a greater restriction upon the use of the buildings or premises or the height of buildings, or requires larger yards or open spaces than now required by law or otherwise, then the provisions of this chapter shall control.

(b) The invalidity of any section or provision of this chapter shall not invalidate any other section or provision hereof. In the event of any conflict between the provisions of this chapter and the provisions of chapter 67 of Title 24 of the Vermont Statutes Annotated, the provisions of such chapter shall control.

Cross references. Differing standards of regulations, see 24 V.S.A. § 3025.

CHAPTER 3

Subdivisions

SECTION

- 6701. Definitions.
- 6702. Approval of subdivision.
- 6703. Acceptance of street by city.
- 6704. Plans and profiles — Filing.
- 6705. — Method; contents.
- 6706. Approval.
- 6707. Monuments; pipes; sewers; drainage; width; specifications.
- 6708. Recording.
- 6709. Conformity with approval.
- 6710. Building permit.

§ 6701. Definitions

The following terms, as used in this ordinance, shall be construed to have the meanings set forth in this section, unless the context shall require a different construction:

(1) "Subdivision" — The division of a tract or parcel of land into three or more lots for the purpose, immediate or future, of sale or building development, excluding development for agricultural purposes, and excluding development for seasonal dwellings not suitable for year-round habitation. The term "subdivision" shall include re-subdivision.

(2) "Through street" — A street which intersects at each extremity another street.

Cross references. City council powers, see city charter section 48 LXI.
Minimum housing standards, see section 921 et seq.

§ 6702. Approval of subdivision

From and after the effective date of this chapter, no person, firm, or corporation shall institute a subdivision of lands within the corporate limits of the city, or file or record any plan therefor in the land records of the city, unless the same shall comply with the standards and requirements set forth in this chapter, and unless and until such person, firm, or corporation shall have procured the approvals required under section 6706 hereof, and unless and until the name of any proposed street shall have been approved by the planning commission of the city; provided, however, that the division of any tract of land into lots, all of which front upon a street

previously laid out, or accepted, as a public street by the city, shall not be construed as being within the terms of this ordinance.

Effective date. This chapter was derived from chapter 54 of the Revised Ordinances of 1953, passed by board of aldermen April 5, 1954, approved April 8, 1954.

§ 6703. Acceptance of street by city

(a) From and after the effective date of this chapter, no deed of any street shall be accepted by the city unless the provisions of section 6702 hereof shall have been complied with, and unless and until the plans therefor as approved under section 6706 hereof shall have been complied with, except that the city council may, in its discretion, accept a street the development of which shall have been substantially completed prior to the effective date of this chapter, and which shall be approved for acceptance by the city engineer and the planning commission of the city. Any proposed street the development of which corresponds to the requirements of this chapter shall, upon the completion of such development and the payment of all liens or charges resulting therefrom, be accepted by the city as a public street upon the tender of a good and sufficient warranty deed thereof, free from encumbrance.

(b) Notwithstanding the foregoing, however, no proposed street shall be accepted as a public street except after public hearing before the board of aldermen upon such acceptance. The proposed deed thereof shall be deposited with the city clerk, together with the cost of publication of notice of hearing thereon, and the board of aldermen shall set the matter down for public hearing, and give notice thereof by publication in a newspaper of general circulation in the city at least 15 days before such hearing. The notice shall state the location of the proposed street, the name of the grantor on the proposed deed, and the time and place of such public hearing.

(c) Such hearing may be adjourned from time to time and place to place to permit the submission of additional data, revised deeds, or other documents that may be required, or the meeting of further requirements for acceptance, but announcement shall be made, prior to any such adjournment, of the time and place to which same is taken.

Cross references. City planning commission, see city charter section 48 LVI, 122; 24 V.S.A. § 2901 et seq.

§ 6704. Plans and profiles — Filing

(a) Prior to instituting any subdivision of lands, the person, firm, or corporation instituting the same shall file with the city

engineer triplicate plans and profiles of the same, together with a petition in triplicate for approval thereof addressed to said city engineer and to the planning commission of the city, and a fee of \$1 per lot for each lot in said subdivision to cover the cost of checking and reviewing the same, and shall also, if so requested by the city engineer, submit to him for checking all traverse calculations and a copy of all survey notes.

(b) Said plans, profiles and petition shall also be accompanied by a certificate of title signed by a practicing attorney of this state, and the same shall not be considered further unless the holders of all interests in the premises shall join in said petition.

§ 6705. — Method; contents

(a) The original of all plans and profiles submitted shall be on tracing cloth, 25 by 18 inches and drawn with waterproof ink. The horizontal scale of all profiles shall be 40 feet to the inch, and the vertical scale 4 feet to the inch. Only one street plan and its profile shall be shown on a sheet. A plot plan showing complete layout shall be submitted on a separate sheet, and shall show the location, owner's name, scale of not more than 80 feet to the inch, date, name and address of surveyor, North point, areas of all lots, length of all lines, ownership and location of all abutting properties, passageways, boundary and street lines, with all distances and angles and the length and radius of all curves, fences, walls, buildings, boundary monuments, natural monuments, waterways and natural drainage courses, location and size of water and sewer mains and of overhead or underground utility services, sidewalks, curbs, gutters and angles and distance to nearest established street lines.

(b) All plans submitted shall be accompanied by profiles on the same sheet showing elevations on each side line and center of any proposed street taken at least every 50 feet, and oftener when necessary to show abrupt changes in surface; zero station shall be the intersection of the longest side line of the proposed street and the side line of the street at which the proposed street starts. All elevations must refer to mean sea level. Profiles shall show the proposed grade of the center line of roadway, indicate bench mark used, and show proposed drainage and disposal of surface water.

§ 6706. Approval

Upon receipt of said plans, profiles and petition the city engineer shall forthwith transmit one copy of each to the planning com-

mission, and shall check and review said plans, profiles and petitions. If satisfied that the same comply with the provisions of this chapter, he shall notify the planning commission to that effect; if not so satisfied, he shall notify said commission of the particulars wherein the same does not comply. Said planning commission shall consider the same after such notification by the city engineer, and shall approve the same if satisfied that they comply with the provisions of this chapter, but they shall not approve the same in any case without the prior approval of the city engineer. No approval hereunder shall remain in force more than 90 days, unless the approved plan is recorded in the city land records within such period.

§ 6707. Monuments; pipes; sewers; drainage; width; specifications

Before any proposed subdivision shall be approved:

(1) There shall be placed, in each street or way, at all angle points and at the beginning and end of all curves therein, and at all intersections of streets and ways, standard city monuments.

(2) Provision shall be made for water pipes of a size, type and location approved by the board of water commissioners.

(3) Provision shall be made for sanitary sewer mains of a size, type and location approved by the board of street commissioners, unless connection to an existing outlet sewer shall be impossible.

(4) Provision shall be made for storm sewer mains, catch basins, and manholes of a size, type and location approved by the board of street commissioners, and the same shall be separate from the sanitary sewer mains.

(5) Each proposed street shall be not less than 60 feet in width, and the extension of any existing street shall not in any event be of any lesser width than the street so extended. However, the city council may in its discretion accept a street in width not less than 50 feet providing said street shall have been substantially completed or a plan designating same shall have been recorded in the city clerk's office prior to April 8, 1954.

(6) All grades and subgrades, and all proposed curbs, gutters and sidewalks shall be in conformity to minimum specifications of the board of street commissioners. The travelled portion of each street shall have such gravel or other base as may be approved by the said commissioners as adequate for existing soil conditions and anticipated travel. Each street shall have curbs and sidewalks on each side except:

(A) If the city council shall determine the construction of sidewalks on one side of a proposed street to be impracticable, the requirement of sidewalks on such side may be waived, and

(B) With respect to a proposed street lying wholly within the industrial zone of the city, recommended for acceptance by the city engineer, the requirement of sidewalks and curbs, or of either, may be waived if the city council shall determine that the foreseeable future development of the area served by such proposed street does not require such improvements.

(7) Each proposed street shall be a through street, except that the planning commission may approve a street which does not conform to the provisions of this paragraph if, in its judgment, such conformity is impractical or unfeasible.

§ 6708. Recording

From and after the effective date of this chapter no plan of any proposed subdivision shall be filed or recorded in the land records of the city unless the same shall have endorsed thereon the approval of the city engineer and planning commission. Such approvals shall be endorsed on plans submitted to them and approved under the provisions of section 6706 hereof, and one copy so endorsed returned to the petitioners. No such plan shall be entitled to record after 90 days from the date of its approval.

§ 6709. Conformity with approval

From and after the effective date of this chapter, no person, firm, or corporation shall proceed with any approved subdivision in any manner not consistent with the approval thereof, unless and until any proposed changes therein shall have been submitted and approved in the same manner as herein provided.

§ 6710. Building permit

From and after effective date of this chapter, no building permit shall issue for the construction of any building or structure on any lot not fronting on a public street unless the application therefor shall be accompanied by a certificate from the city engineer to the effect that adequate provision has been made for drainage of surface waters from that portion of the proposed street, or right of way, lying between said lot and the public street from which access to said lot is afforded.